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PLEASE REPLY TO NEWARK OFFICE

March 26, 2014

Hon. Michael A. Hammer, U.S.M.J.
United States District Court
District of New Jersey
Martin Luther King, Jr. Federal Bldg.
& U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07102

Re: Lisa Fisher v. Hon. Francine A. Schott, J.S.C., et al.,
Civil Action No. 13-5549 (JLL) (MAH)

Dear Judge Hammer:

This office represents the plaintiff in the above-referenced matter. This is an employment case brought under the Federal Family & Medical Leave Act, the New Jersey Family Leave Act, and the New Jersey Law Against Discrimination.

The parties have – just barely – begun written discovery. We are running into countless disputes and delays over the simplest matters. Presently, Your Honor has scheduled a telephone status conference for April 29, 2014, at 10:00 a.m. I am writing respectfully to request that the Court hold a telephone conference call much sooner than that. It is my view that discovery is getting seriously off track, and that by April 29th we will literally be dealing with dozens of discovery disputes. Please allow me to give just four examples of the problems we are having:

*Electronic discovery is completely dead in the water. I provided defense counsel with my response to their proposed list of search terms on March 14th. I have received no response. At the moment there is no game plan for moving forward.

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*The parties spent more than a week fussing over a Joint Letter regarding defendants' insistence on having a 30 day delay in answering plaintiff's discovery. Literally one business day after this Joint Letter was finally submitted, counsel for Judge Schott suddenly changed their minds and served the discovery responses. (The State, on the other hand, has still not served their interrogatory answers or document responses.)

*Now the parties are in the process of preparing a **second** joint letter, this time over the issue of whether supplemental discovery demands should be allowed. (Judge Schott's counsel has served supplemental discovery demands on plaintiff, and plaintiff wants to insure supplemental discovery demands will be allowed for all parties.) This second letter is largely being submitted because counsel for the State simply refuses to tell us what her position is on this issue.

*Finally, for the discovery responses we do have, defendants have objected to almost every single interrogatory and document request (and many of the requests to admit). There will literally be dozens and dozens of disputes over the written discovery in the case.

When I clerked for Judge Debevoise in the District of New Jersey, my recollection is that the Magistrate Judges had caseloads of around 600 to 700 cases. I don't know what your caseload is like, but this simple, single plaintiff case is going to literally consume dozens of hours of the Court's time if the parties do not get back on track. If every case were like this, I imagine you would not have time to sleep. The attorneys in this case are all very experienced. There is no reason that responding to simple requests ("What is your position on this issue? Why can't you get us the documents now if they're already bates numbered?") should be like pulling teeth.

I respectfully submit the parties, and the case, and the Court, would benefit from a little pep talk about the benefits of cooperation. Failing to address these issues sooner rather than later, I submit, will be a green light to defense counsel to continue to obstruct discovery, and will only multiply the problems we will face down the road. A small investment of time now, I respectfully submit, will save the Court an enormous amount of time down the road.

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Thank you for Your Honor's courtesies, and for your consideration of this heartfelt request.

Respectfully yours,

THE DWYER LAW FIRM, L.L.C.



Andrew Dwyer

Cc: Susan Scott, DAG (via ECF)
Marc Edell (via ECF)